

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill decreases access to public records.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Public Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is further addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act¹ provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or
- Protecting trade or business secrets.

Local Update of Census Addresses Program

The Local Update of Census Addresses Program (LUCA program) is a decennial census geographic partnership program to allow the Census Bureau to benefit from local knowledge in developing its master address file for the 2010 census. The LUCA program is made possible by the Census Address List Improvement Act of 1994,² which provides an opportunity for designated representatives of local, state, and tribal governments to review addresses contained in the master address file.³

Governments opting to participate in the LUCA program must designate a LUCA liaison to review the portion of the census address list covering the area under their jurisdiction. The LUCA liaison is subject to the same confidentiality requirements as census workers and is prohibited from disclosing census information.⁴ LUCA program participants must review a set of security guidelines and sign a confidentiality agreement promising to protect the confidential address list, which includes corresponding maps and address tallies.

¹ Section 119.15, F.S.

² Public Law 103-430.

³ U.S. Census Bureau, *2010 Decennial Census Local Update of Census Addresses (LUCA) Program*, www.census.gov/geo/www/luca2010/luca.html.

⁴ Pursuant to Title 13 U.S.C., the address list is confidential.

The LUCA program provides clear guidelines for local government participation and confidentiality; however, the federal law is less clear as to confidentiality at the state level. As such, a public records exemption is needed.

EFFECT OF BILL

The bill creates a public records exemption for U.S. Census Bureau address information held by an agency pursuant to the LUCA program. Address information includes maps showing structure location points, agency records verifying addresses, and agency records identifying address errors or omissions. Confidential and exempt address information may be released to another agency or governmental entity in the furtherance of its duties and responsibilities under the LUCA program.

The bill also authorizes agency access to any other confidential or exempt information held by another agency if access is necessary for the receiving agency to perform its duties and responsibilities under the LUCA program.

The bill provides for future review and repeal of the exemption on October 2, 2012. It also provides a public necessity statement as required by the State Constitution.

C. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., to create a public records exemption for certain address information related to the Local Update of Census Addresses Program.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on state and local governments participating in the Local Update of Census Addresses Program, because staff responsible for complying with public records requests will require training related to the creation of the public records exemption. In

addition, state and local governments could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, should be absorbed as they would be part of the day-to-day responsibilities for those agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution, requires a statement of public necessity (public necessity statement) for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.